

MINUTES OF REGULAR MEETING
SUGAR CITY COUNCIL
THURSDAY, OCTOBER 26, 2017

Presiding: Mayor David D. Ogden
Meeting Convened at 6:40 p.m.
Prayer: Mayor Ogden
Pledge of Allegiance

Present: Mayor David D. Ogden; Clerk-Treasurer Wendy McLaughlin; Councilmen Brent Barrus, Joe Cherrington, and Bruce King, Councilman Greg Venema was excused; City Public Works Director Zane Baler; Chairman Dave Thompson of the Planning and Zoning Commission; Delorum Co-Founder and Project Manager Keith Nelson; Citizens for the Rule of Law Representative Vaun Waddell; Citizens Joy Ball, Jaren Merrill, and Enrique Reyes,.

MINUTES: Mayor Ogden asked if there were any corrections to the revised minutes of the regular meeting held on October 12, 2017. Each councilman had a copy of the minutes prior to the meeting. There was a question on the date the Lerwills filed applications for a Zone Change and Preliminary Plat for Division #3 in Old Farm Estates. It was moved by Councilman Cherrington and seconded by Councilman King to accept the minutes after a date check for Division #3; motion carried.

PLANNING AND ZONING REPORT: Chairman Dave Thompson reported on the following items:

Land Use Schedule: The commission reviewed the schedule and found more modifications. However, they have gone through everything and feel comfortable setting a public hearing date at their next meeting. City Attorney Forsberg is reviewing their definitions for Cottage, Tiny, and Patio Homes which are new to the schedule.

Special Use Permit for Business Park Storage Sheds: The commission will review the application as soon as it is complete along with Design Review.

Special Use Permit for Dalen Tolman Duplex: The commission recommended the Findings of Fact for approval on August 23, 2017 and was recommended to the council August 24, 2017, as long as the property could meet 4 parking stalls. Since then Mr. Tolman sold the property to Enrique Reyes September 11, 2017, who indicated then that he would like to use the special use permit as applied. The city attorney was consulted to see if the permit runs with the property. Mr. Reyes can use the special use permit submitted by Mr. Tolman as applied for.

FINDINGS OF FACT – TOLMAN DUPLEX: The mayor reviewed with the council the Findings of Fact, Conclusions of Law and Recommendation from the Planning and Zoning Commission (Attachment #1). However, the council wanted more information on the code discrepancies mentioned in the document allowing/not allowing two family homes in zone Residential (R1). The council asked Mr. Thompson to work with the attorney to describe the discrepancy in more detail and add an additional condition besides the parking that was not included in the Findings of Fact. Mr. Reyes can go forward with the modifications on the duplex but will not be able to rent the unit until the conditions indicated in the Findings of Fact are met.

MOTION: It was moved by Councilman Barrus and seconded by Councilman Cherrington to adopt the Findings of Fact and approve the special use permit, subject to Mr.

Thompson's two changes: motion carried with Councilman King abstaining.

VAUN WADDELL'S LETTER TO PLANNING AND ZONING CHAIRMAN DAVE THOMPSON AND CITY'S RESPONSE: Mayor Ogden explained to the council and public that Planning and Zoning postponed the public hearing for the Land Use Schedule because of Mr. Waddell's objections that the date was not set in the commission's meeting nor mentioned in their minutes (Attachment #2). The attorney explained that the Planning and Zoning administrator can and often does set the public hearing dates without waiting for a meeting to help streamline the process for the applicant (Attachment #3).

MAYOR'S REPORT: Mayor Ogden reported on the following items:

Final Plat South Fork Villas in Old Farm Estates: The mayor reported that there was some question on the final plat needing signatures from the irrigation and health department since the plat will not use irrigation water and hook up to the city's water and sewer system. However Eagle Rock Engineering showed that it is a state law and agreed to obtain all signatures.

Moody Waterline Project: Mayor Ogden reported that he sent Mr. Garry Jeppesen earlier in the week information on the proposed Moody waterline asking for an easement. He indicated he would review the information and get back to the mayor. There are other developers interested in seeing the water line extended to the Moody road.

Water Bond Flyer and Citizen Reaction: As the election day draws closer the mayor would like to canvas the city with help of a few volunteers to answer any questions or concerns the people may have on the water bond. He did stress that he could only inform and not persuade them to vote for the bond.

Business Landscaping in Business Park: Mr. Jon Gregory has been asked by the city to finish landscaping an earlier building he constructed within the Business Park nearly two years ago. The building known as the Frito Lay building is in violation of the Business Park's Covenants, Conditions, and Restrictions (CC&Rs). Mr. Gregory currently wants to build a storage unit in the Park. The city will make sure all the landscaping is complete before issuing a certificate of completion. He has indicated that he may use artificial plants. The Design Review board will review the proposed plans for the landscaping and building.

Regional Water Supply: The regions's current water supply is 40% above normal for this time of year. The reservoirs are still full taking fear of a water shortage and recall off the table for now.

Water System: The city received a report from the Department of Environmental Quality (DEQ) stating after a full environmental assessment that the proposed new water system would add "no significant impact". There were a few public comments and minor adjustments but was approved on October 14, 2017. All that is left is for the water bond to pass.

RATIFICATION OF POSSIBLE WATER RIGHTS PURCHASE BY CITY: The city was given an opportunity to buy seven acre feet of water from the Douglas and Kenneth Sakota water right on two acres at a price of \$5,000/acre. The water right is equivalent to enough water to cover a football field seven feet deep. The option to buy is good until November 1, 2017 or it will be offered to another. The council ratified the agreement to purchase the water right. The sale will be published in the paper which will extend the agreement for 180 days until finalized if no contestments hold.

RESOLUTION NO. 2017-21 (Approve Agreement for Purchase and Sale of Water Rights):

The council approved the agreement and purchase. Resolution 2017-21 was read in full by Councilman Cherrington.

MOTION: It was moved by Councilman Cherrington and seconded by Councilman Barrus to adopt Resolution No. 2017-21. Motion carried. Thereupon the clerk called roll upon the motion.

Those voting aye: Councilmen King, Cherrington, and Barrus

Those voting nay: None

Councilman Venema was excused

A copy of said resolution is attached hereto marked "Attachment #4."

POSSIBLE ABANDONMENT OF SOUTH 7TH WEST: With the new 90 degree intersections to Highway 33 from 3rd and 5th South the Idaho Transportation Department has asked the city to abandon South 7th West. Sun Glo is also in favor and felt the railroad would also agree since crossings always pose a risk. It is also thought that abandoning the road and crossing could be used as leverage for another crossing needed north of Pro Peat. A public hearing will need to be held. The city will work with the city attorney Bill Forsberg to start the process. Planning and Zoning will not need to be involved in the public hearing.

DELORUM CITY LOGO SURVEY: The contract with Delorum will cost the city \$7,700 to create a newer, more meaningful logo. The city's current logo is complicated, dated, and difficult to work with. A good city logo or brand can improve recognition, create trust, build value, inspire, and give direction and motivation. However, Councilman King asked the council to wait until the next meeting after the election which may set a different standard. Some feel that spending money on revising the city's logo is frivolous and unnecessary spending. The mayor decided to review the survey responses at a later time although Mr. Nelson was ready to share the survey results with the council.

RESOLUTION NO. 2017-22 (Approve Delorum Professional Services Contract for City Logo): The council's consensus was to move forward and approved the Delorum contract Resolution 2017-22 was read in full by Councilman Cherrington.

MOTION: It was moved by Councilman Cherrington and seconded by Councilman Barrus to adopt Resolution No. 2017-22. Motion carried. Thereupon the clerk called roll upon the motion.

Those voting aye: Councilmen Cherrington, and Barrus

Those voting nay: None

Councilman King abstained

Councilman Venema was excused

A copy of said resolution is attached hereto marked "Attachment #5."

ANIMAL ORDINANCE HARDSHIP PERMIT APPLICATION: No report.

CITY NEEDS LIST REVIEW: The council briefly reviewed the list. One suggestion was plan to improve the city's Christmas lights down Center Street. The city currently does not have a

power supply for the lights.

COUNCIL HOLIDAY SCHEDULE: Since the second council meetings encroach on the Thanksgiving and Christmas Holidays the council voted to cancel the second meetings in November and December. The mayor noted that since the Tree and Beautification Committee was not manned that the city would need to organize the annual Christmas Tree Lighting scheduled for the first Monday, December 4, 2017. The city's Christmas dinner will be held Wednesday, December 6, 2017 at the High School cafeteria. Texas Roadhouse will cater the food.

MOTION: It was moved by Councilman King and seconded by Councilman Cherrington to cancel the second regular council meetings in November and December: motion carried.

DEPARTMENT REPORTS:

COUNCILMAN BARRUS: Councilman Barrus reported two water flow meters are ready to be installed as mandated by DEQ.

COUNCILMAN CHERRINGTON: No report.

COUNCILMAN KING:

Fall City Wide Clean-up: Councilman King thanked the clean-up crew for a job well done. It took just 2 ½ days. Having the large dumpster available through most of the year helps.

Grants: Planning and Zoning Chair Dave Thompson is working on a walk-way grant due December 21. Mayor Ogden reported that the proposed High Country Resource Conservation and Development Council (HCRC&D) grant for the second irrigation system fell through.

COUNCILMAN VENEMA: Excused.

Meeting adjourned at 8:35 p.m.

Signed: _____
David D. Ogden, Mayor

Attested: _____
Wendy McLaughlin, Clerk-Treasurer

**Before the City of Sugar City
Planning and Zoning Commission**

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|---|--|
| <p>_____)</p> <p>In the Matter of an Application for a Zone Change)</p> <p>Dalen & Shellie Tolman)</p> <p>220 S Teton Ave)</p> <p>Sugar City Idaho 83448)</p> <p style="text-align: right;">Applicant)</p> <p style="text-align: right;">)</p> | <p>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS</p> |
|---|--|

FINDINGS OF FACT

1. Dalen & Shellie Tolman, of 220 S Teton Ave, Sugar City, Idaho, 83448, submitted an application for a special use permit on July 28, 2017.

2. The affected property is described as follows:

220 S Teton Ave Sugar City - Plat A, Lot 7, Block 51

3. Dalen & Shellie Tolman are the record owners of the property proposed for rezoning.

4. The property located at 220 S Teton Ave, Sugar City, is presently zoned Residential, R1. This zoning district provides for single family dwellings, although the commission found some discrepancies in the code of allowing two family homes.

5. A public hearing on the application was held on August 23, 2017 at 7:00 p.m. at the Sugar-Salem High School Auditorium.

6. Shelly Jones, deputy clerk, attended the hearing. She reported that the application was complete, and that all fees had been paid. All required notices regarding the hearing had been published, mailed and posted in a timely fashion as required by the Sugar City Zoning Ordinance and Idaho State law. The affidavit of publication and affidavit of mailing and posting were entered in the record.

7. Two citizens were against the duplex among single family homes.

8. The city code has a discrepancy. In one area of code, two family homes are allowed, and in another, they are not.

9. The property values of surrounding homes shouldn't change because no change is being made to the outside of the home.

CONCLUSIONS

The Sugar City Planning and Zoning Commission concluded regarding the application that:

Although there are discrepancies in the code as to whether a duplex is allowed in R1, the application for a special use permit for a duplex complies with the city code.

The proposal complies with applicable state and federal laws and regulations.

PLANNING AND ZONING COMMISSION RECOMENDATION

Concluding all of the above, the Sugar City Planning and Zoning Commission, recommends that the City Council approve and issue the special use permit requested by applicant, subject to the following conditions:

The property complies with the proposed code change to include 2 parking stalls per unit.

Signed and Dated this 26th day of October, 2017.

By: _____
Chairman, Planning and Zoning
Commission

Attest:

City Clerk-Treasurer

October 5, 2017

David Thompson, Chairman
Planning and Zoning Commission
Sugar City ID 83448

Dear Mr. Thompson:

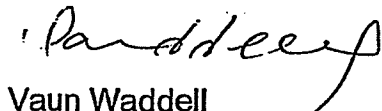
Notice appeared in the *Standard Journal* on October 3, 2017, of a public hearing to be held before the Sugar City Planning and Zoning Commission on October 19, 2017, "regarding: Land Use Schedule, Definitions & Map Revisions."

Minutes of recent Planning and Zoning meetings do not contain any P&Z action to set such a public hearing. Citizens for the Rule of Law request to be informed when the decision was made to hold this public hearing and by whom.

In light of the item on today's meeting agenda, "Discussion on Land Use Schedule, Definitions & Map & Possible Setting of Public Hearing Date," the publication appears to circumvent the requirement in Idaho Code and the City Code for 15-day public notice of a decision to conduct a public hearing. Actual discussion, today, on this agenda item, or setting a date for a public hearing, would nullify the publication already before the public, calling for a new publication.

Further, Citizens for the Rule of Law have challenged the City's application of MU-1 and MU-2 zones in a Motion for Reconsideration. The City Council denied the Motion, but Citizens have filed a Petition for Judicial Review, meaning that the matter is pending a legal decision. If the P&Z chooses to revise the land use schedule on the subject of MU-1 and MU-2 zones at the present time, the challenge would expand: has the P&Z demonstrated in reasoned argument that proposed revisions are consistent with the Comprehensive Plan? Absent such demonstration, Citizens would conclude that the points of revision in these zones is in violation of the Idaho Local Land Use Planning Act.

Sincerely yours,



Vaun Waddell
Member, Citizens for the Rule of Law

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October 12, 2017

David Thompson
Planning and Zoning Commission
Sugar City, Idaho 83448



William R. Forsberg, Attorney
Troy D. Evans, Attorney
Dylan Anderson, Attorney
Phil Packer Attorney

Subject: *Letter from Vaun Waddell dated October 5, 2017.*

Dear Dave:

I have reviewed the subject letter in which Vaun asserts that there was no "P&Z action" to set a public hearing. It is my assumption that Vaun means the planning and zoning commission did not vote to hold a hearing on the land use schedule. After reviewing the state law and city ordinances I was unable to find any requirement that the planning and zoning commission itself vote to hold a hearing. Setting hearings is usually an administrative task undertaken by the planning and zoning administrator which is the City Clerk in Sugar City. The Planning and Zoning Commission can set a hearing, but it is not required to.

I understand the confusion that the agenda item Vaun cited could cause, but the agenda does not invalidate the hearing that was scheduled. Vaun incorrectly asserts that the 15 day notice required by state law and the city code is from the decision to hold a public hearing. That is not correct. The 15 day period is the days that the notice must be published in the newspaper prior to the hearing.

Finally, the Citizens for the Rule of Law's legal challenge to the city's decision on the Lerwill permit applications is not relevant to the hearing or adoption of an amended land use schedule. The City does not control what legal action third parties may take in response to its actions, all the City can do is move forward with its business in a lawful way. To do otherwise would be allowing the third parties to govern the City's actions by threats and intimidation. I am satisfied that hearing public comment on the proposed amended land use schedule is legal and appropriate, and the City should proceed with the hearing.

Sincerely,

A handwritten signature in dark ink, appearing to read "William Forsberg", written over a horizontal line.

William Forsberg

cc: City Clerk, Mayor, Vaun Waddell

The City of Sugar City, Idaho

Resolution No.: 2017 - 21

"A Resolution to Approve an Agreement for Purchase and Sale of Water Right between Douglas K Sakota and Kenneth T Sakota and the City of Sugar City, to Sell Four Hundredths of One (0.04) Cubic Feet Per Second (CFS), or Seven (7) Acre Feet of Water Identified in the Sales Agreement on Exhibit 2."

WHEREAS, the Council of the City of Sugar City, Idaho desires to purchase a water right in the amount of 0.04 CFS; and

WHEREAS, the Sellers, Douglas K Sakota and Kenneth T Sakota, desire to sell their water right on two (2) acres of property in the amount of 0.04 CFS, or the equivalent of 7 acre feet of water; and

WHEREAS, Roger Warner of Rocky Mountain Environmental, who represents the City of Sugar City in their use of water and maintenance of water rights, is willing to handle the transfer requirements;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SUGAR CITY, AS FOLLOWS:

The City Council of the City of Sugar City, Idaho hereby approves the purchase of the water right, as indicated in the Agreement for Purchase and Sale of Water Right between Douglas K Sakota and Kenneth T Sakota and the City of Sugar City, in the amount of 0.04 CFS or 7 acre feet of water, and authorizes the Mayor to execute the aforementioned Agreement, and any and all closing documents required for the purchase and transfer of the water right.

PASSED by the Council of the City of Sugar City on this 26th day of October, 2017

APPROVED by the Mayor of the City of Sugar City on this 26th day of October, 2017.

(SEAL)

David D. Ogden,
Mayor

ATTEST:

Wendy McLaughlin,
City Clerk - Treasurer

The City of Sugar City, Idaho

Resolution No.: 2017 - 22

"A Resolution to Approve a Professional Services Contract between Delorum Corporation and the City of Sugar City, to Provide Services in the Development of a New Logo for the City of Sugar City."

WHEREAS, the Council of the City of Sugar City, Idaho desires to consider updating the Logo for the City of Sugar City, as it feels that the current Logo is out of date and needs to be simplified, in order to meet today's standards, and better represent who the City is; and

WHEREAS, Delorum Corporation has offered its services to help the city accomplish this purpose, by including the citizens of Sugar City in the development process, and has the expertise and experience to make this a beneficial process for all concerned; and

WHEREAS, the Council of the City of Sugar City, Idaho feels this partnership with Delorum Corporation will benefit the City by providing a marketing Logo that represents the City;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SUGAR CITY, AS FOLLOWS:

The City Council of the City of Sugar City, Idaho hereby approves the Professional Services Contract with Delorum Corporation in the maximum amount of \$7,700, and authorizes the Mayor to execute the aforementioned Professional Services Contract.

PASSED by the Council of the City of Sugar City on this 26th day of October, 2017

APPROVED by the Mayor of the City of Sugar City on this 26th day of October, 2017.

(SEAL)

David D. Ogden,
Mayor

ATTEST:

Wendy McLaughlin,
City Clerk - Treasurer